

Exhibit 7

1 basis for some of FICO's allegations, but the court has
2 determined that that was not -- that was not a legal basis
3 for termination of the agreement. I mean, to the extent
4 that confusion is really a problem, it could be handled that
5 way.

6 But now you've said the other thing is that the
7 refusal to give consent was in bad faith and it was done to
8 extract more of a license fee; and in order to do that, they
9 had to have reasons why you were in breach, and this is one
10 of the arguments they made.

11 MS. GODESKY: In our view, in bad faith, because,
12 as we show the jury, document after document shows that at
13 the time they knew and in fact often facilitated use of
14 software that included Blaze outside the United States.

15 THE COURT: But all of that even, all of that,
16 even assuming that's fair game, the fact that they pursued
17 this claim in litigation doesn't relate to that. You know,
18 I can see -- I can understand why you're saying that the
19 conduct during the license termination negotiations may --
20 that may be relevant to that; but the fact that it was
21 pursued in this litigation, I don't see it.

22 MS. GODESKY: It goes to damages, Your Honor.
23 Right? There's interrogatory responses where we've
24 identified the fact that we had to incur costs and fees
25 litigating this case as some of the harm.

1 THE COURT: Well, those are not items of damage
2 that you have asserted in the lawsuit, right? I mean, those
3 are items of damage or they are appropriate for the court to
4 consider after the verdict, right?

5 MS. GODESKY: They have been asserted in
6 interrogatory responses. Right? When the question is
7 asked, What damage have you incurred from these, you know,
8 your counterclaims, we've identified costs and fees of
9 litigation.

10 THE COURT: But by that logic, any party would get
11 to say costs and fees in litigation are part of my damages,
12 and that's contrary to the American rule.

13 MS. GODESKY: I think, though, Your Honor, in this
14 context, and we can -- we can certainly present the court
15 with law around this, that the fact that you're incurring
16 the fees can be sufficient to show the harm, show the
17 damages for the element of the breach of contract claim.
18 And then it almost becomes nominal damages at that point, as
19 far as what the jury could award.

20 THE COURT: But now talk about confusing the jury.
21 Right? I mean, you can't make that argument -- well, maybe
22 you can, but the jury is not going to determine your fees as
23 an element of damages.

24 MS. GODESKY: No, no. We agree with that. We
25 agree with that. Absolutely. But I'm just -- Your Honor's

1 question was, How is the fact of litigation relevant to the
2 bad faith claim, you know, and that's why. Right? I mean,
3 we litigated a claim that was found to be without basis.
4 They gave us one of two reasons, one of which we had to
5 spend five, six years litigating.

6 THE COURT: But the bad faith claim is temporally
7 limited to the conduct pre-litigation. And so the fact that
8 they continued what you would say is bad faith conduct in
9 the litigation, I don't think fairly supports the claim that
10 their pre-litigation conduct was in bad faith; or if it
11 does, it's going to be really confusing to a jury.

12 MS. GODESKY: I think our primary concern, Your
13 Honor, is that -- and if the court can address it with the
14 instruction or something along the lines of the instruction
15 or facts that you could give the jury about the territorial
16 restriction, that would go a long way to addressing our
17 concerns, because I think undoubtedly both parties have on
18 their exhibit list, right, the letters back and forth about,
19 You breached Section 10.8 and you breached the territorial
20 restriction. And so we need to give the jury an answer as
21 to what happened there.

22 THE COURT: Well, and the jury -- I guess I would
23 rephrase your point a slightly different way to be that you
24 certainly can't have the jury finding you breached the
25 contract on the basis of the territorial exclusion. That